

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

INTELLECT WIRELESS, INC.,)	
)	
Plaintiff,)	Civil Action No. 08-C-1215
)	
v.)	Honorable Joan B. Gottschall
)	Magistrate Judge Susan E. Cox
)	
T-MOBILE USA, INC., UNITED)	
STATES CELLULAR CORP.,)	
VIRGIN MOBILE USA, L.P., HELIO,)	JURY DEMAND
INC.)	
)	
Defendants.)	

**PLAINTIFF'S RESPONSE TO
T-MOBILE USA, INC.'S COUNTERCLAIMS**

Plaintiff Intellect Wireless, Inc. ("Intellect Wireless") hereby responds to T-Mobile USA, Inc.'s ("T-Mobile") Counterclaims, served on April 24, 2008, as follows:

40. T-Mobile USA Inc. ("T-Mobile") is a Delaware corporation with corporate headquarters at 12920 S.E. 38th St., Bellevue, WA 98006.

Response:

Admitted.

41. Upon information and belief, Intellect Wireless, Inc. ("Intellect Wireless") is a Texas corporation and has a principal place of business in Forth Worth, Texas.

Response:

Admitted that Intellect Wireless is a Texas corporation with an office in Forth Worth, Texas; otherwise denied.

42. These counterclaims arise under federal law, and this Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338, 2201, and 2202, and the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

Response:

Admitted that this Court has jurisdiction; otherwise denied.

43. Venue is proper under 28 U.S.C. § 1391 and 1400(b).

Response:

Admitted.

44. Intellect Wireless has asserted that T-Mobile infringes U.S. Patent Nos. 7,257,210, 7,266,186, and 7,305,076 (collectively "the patents in suit"). An actual controversy exists between T-Mobile and Intellect Wireless over the alleged infringement, invalidity, and unenforceability of those patents-in-suit.

Response:

Admitted that T-Mobile infringes the patents in suit; otherwise denied.

FIRST COUNTERCLAIM

45. T-Mobile incorporates and realleges Paragraphs 1 through 44 as though fully set forth herein.

Response:

Intellect Wireless incorporates and realleges its responses to paragraphs 40-44 as though fully set forth herein; no response is necessary to paragraphs 1-39 of T-Mobile's answer and affirmative defenses.

46. T-Mobile has not infringed and does not directly or indirectly infringe any valid, enforceable claim of the patents in suit, either literally or under the doctrine of equivalents.

Response:

Denied.

SECOND COUNTERCLAIM

47. T-Mobile incorporates and realleges Paragraphs 1 through 46 as though fully set forth herein.

Response:

Intellect Wireless incorporates and reallages its responses to paragraphs 40-46 as though fully set forth herein; no response is necessary to paragraphs 1-39 of T-Mobile's answer and affirmative defenses.

48. The patents in suit are invalid for failing to satisfy one or more of the requirements of the Patent Act, 35 U.S.C. § 1, *et seq.*, including, but not limited to, the conditions of patentability set forth in 35 U.S.C. §§ 101, 102, 103, and 112.

Response:

Denied.

ADDITIONAL DEFENSES

1. T-Mobile's pleading fails to state claims upon which relief can be granted, i.e., claims for noninfringement and invalidity of the patents in suit.
2. T-Mobile's pleading fails to state a justiciable controversy on any issue of noninfringement or invalidity.

PRAYER FOR RELIEF

WHEREFORE, Intellect Wireless requests judgment in its favor on T-Mobile's Counterclaims, including declaratory judgment that the patents in suit are not infringed and not invalid, an award of its costs, fees and expenses as provided by law, and any other and further relief to which Intellect Wireless may be entitled or the Court or a jury may award.

JURY DEMAND

Intellect Wireless hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

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Attorneys for Plaintiff,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **PLAINTIFF'S RESPONSE TO T-MOBILE USA, INC.'S COUNTERCLAIMS** was electronically filed with the Clerk of Court using CM/ECF system, which will send notification of such filing to the following e-mail addresses on May 7, 2008 by:

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